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July 2008

## Legal Issues



### Contract Terms That Help you get Paid

By Timothy R. Hughes and Alison R. Mullins



In today's economic climate, it is vital that businesses avoid credit and payment problems. Including key protections in the terms and conditions of your contracts can help you avoid common credit and payment problems. Employing the same terms and conditions can further benefit your effort to receive timely payment. Following are important contract provisions to consider including in or excluding from your standard contracts.

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#### Timing issues impact payment

Timing may be central to your rights ability to get paid. When entering into a contract, review the contract carefully for different timing requirements such as notice requirements for differing site conditions, delays, change orders and billing. If you miss a deadline for notice of a condition or claim, you may end up performing the work for free.

Submitting an invoice at the proper time is another important element of receiving timely payment. To facilitate timely payment of submitted invoices, inquire about the payment cycles at the contractor's office at the beginning of the contract. Time the submissions of your invoices accordingly. For example, if the contractor processes payment on the 15th of each month, ensure that you are submitting your invoices before the 15th and not on or after the 15th of the month. If you do submit the invoice on the 15th or after in the month, you will end up waiting almost a month before the invoice is processed and paid.

Finally, timing can be pivotal to protecting your legal claims. Lawsuits, bond claims and mechanics liens all have timing requirements. In the event of untimely payment by the contractor, knowing these deadlines is critical to preserving all your rights for receiving payment.

#### Proper formatting of submissions

You should know and adhere to formats for payment applications, invoices and change orders. Some contractors require certain information such as the project name and number to be included on your payment applications, invoices and change orders. If the documents you are submitting are not in the proper format, they may be returned to you for resubmission, therefore delaying payment.

#### Prompt follow-up

Keeping close tabs on payments is important. Follow up promptly and regularly regarding payments that are overdue and outstanding. Do not let outstanding invoices linger without attempting to receive payment. The longer an invoice is outstanding, the harder it is going to be to get paid.

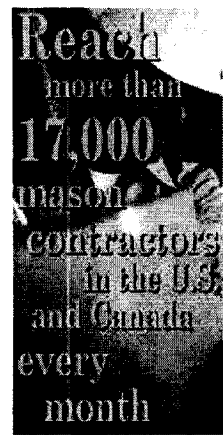
### Interest provisions

Include a provision that provides the right to charge interest on overdue outstanding balances. This is often not a controversial term to incorporate into your contract. These provisions, if enforced, are a deterrent to let outstanding invoices linger and encourage timely payment. They can also be an effective trigger to induce payment of overdue invoices.

### Avoiding the aggressive general contractor

As important as it is to include certain provisions in your contract, it is equally important to at least try to avoid others. One of the most important things to avoid when entering into a contract is getting hooked into overly aggressive general contractor terms and conditions. Two common examples of overly aggressive general contractor terms include "paid if paid provisions" and "upfront waiver of any and all lien claims." These types of provisions strip you of certain rights to ensure you get paid for work completed and are dangerous to have in contracts you are signing.

The contracts you sign, and the specific payment terms and conditions included in them, are critical. Protect yourself by using and enforcing these key terms and conditions in your contract.




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***This article is not intended to provide specific legal advice, but instead as general commentary regarding legal matters. You should consult with an attorney regarding your legal issues, as the advice you may receive will depend upon your facts and the laws of your jurisdiction.***

This article first appeared in *Masonry Magazine*, [www.masonrymagazine.com](http://www.masonrymagazine.com).

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Web site by: **Lionheart Publishing, Inc.**  
506 Roswell Street, Suite 220, Marietta, GA 30060  
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